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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,669	01/11/2002	Alfonso Losada	SST-1305	8368

498 7590 03/16/2007
JAMES R. CYPHER
405 14TH STREET
SUITE 1607
OAKLAND, CA 94612

EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3677

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/043,669

Applicant(s)

LOSADA, ALFONSO

Examiner

Flemming Saether

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1-17-07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-52 is/are pending in the application.
- 4a) Of the above claim(s) 6,7,13,17,18 and 36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8-12,14-16,19-23,25,27,28,31-34,39-41 and 44-48 is/are rejected.
- 7) ☒ Claim(s) 29,30,35-38,42,43 and 49-52 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Claims 6, 7, 13, 17, 18, 24 and 26 remain in the application as having been non-elected.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, 8-12, 14, 16, 19, 25, 27, 31-33, 39, 40 and 44-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Pfaff (US 2,961,210). Pfaff discloses a fastener assembly (31) comprising a plate (81) having a bearing surface (the lower surface of the plate) with an extending portion located opposite an uninterrupted groove (89, 90) formed in the top surface which extend the length of the plate and are capable of providing a guide means and; a stud (15) is held within the plate capable of being received in a nail gun and having a pointed end extending below the bearing surface. The plate further includes an attachment leg (33) and raised portion (63) which is capable of collapsing (at 66 or 86) to contribute to the bearing surface. The raised portion begin shown cylindrical in the vertical direction. In regards to claim 31, 32, 44 and 45 where the raised portion is not required to collapse and there is no required attachment leg.

Claims 1, 3-5, 8-12, 14-16, 20-23, 25, 27, 28, 33, 34, 39-41, 46 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Losada (WO 98/47668). Applicant's prior publication discloses a fastener assembly feeding system comprising a

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plurality of unattached plates (318) each having a bearing surface (the upper surface of the plate) with an extending portion located opposite an uninterrupted groove (shown at where elements 382 are located in Fig. 13) formed in the "top" surface which extend the length of the plate and provide a guide means mating with a portion formed on a track (316). The plates further include an attachment leg (at 360) which extends in a plane parallel to the grooves and a stud (336) is held within the plate being received in a nail gun and having a pointed end extending below the bearing surface. A raised portion is shown as the conical portion which engages the stud which is collapsed upon driving the stud to contribute to the bearing surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Losada as applied to claim 16, 46 and 47 above, and further in view of Pfaff. Losada does not disclose the raised portion as being cylindrical. Pfaff discloses a similar device and includes cylindrical raised portion (at 63 in the vertical direction). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the device of Losada with a cylindrical shaped raised portion as disclosed in

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Pfaff because the cylindrical shaped raised portion would better retain the stud by having more surface area for its engagement.

Allowable Subject Matter

Claims 29, 30, 35-38, 42, 43 and 49-52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Remarks

After consider of applicant's remarks, the rejections remains unchanged except to correct a typo and to redefine the raised portion as the potion surrounding the shank as an answer to arguments regarding claims 31, 32, 44 and 45. While the examiner concedes that there are differences between the invention and the prior art; the claims are written broad enough that the prior art continues to anticipate them.

Applicant first argues that Pfaff does not disclose the groove elements to be uninterrupted since only a portion of the plate is shown. In response, an entire plate is shown in Figs. 5-8, which has the grooves being uninterrupted. The fact that the plate may include a deformation, such as the arcuate portion (33) does not preclude the grooves from being read as "without interruption" because grooves are disclosed to continue over any deformation of the plate without stopping.

With respect to claim 16, applicant argues the raised portion of Pfaff does not include grooves. In response, claim 16 is an independent claim, therefore does not require the "grooves" to be the same "grooves" as applied to claim 1. In that regard, as applied to claim 16, the "grooves" are read as the gaps between the fingers (125-128) shown in Fig. 10. Those grooves, between the fingers, would also inherently assist in the deformation of the raised portion.

Applicant's remarks with respect to claims 31, 32, 44 and 45 have been answered above. No further response is believed necessary.

Applicant next argues that Losada does not show the extending portions located opposite the grooves because the extending portions extend from the bearing surface. In response, the examiner disagrees because the claims do not define the bearing surface to preclude the portions opposite the grooves from being considered as extending from the bearing surface.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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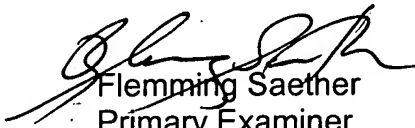
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Flemming Saether
Primary Examiner
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